

THE HON'BLE SRI. JUSTICE GODA RAGHURAM

W.P.No. 8308 of 2006

28-04-2006

Between:-

Smt. K. Pacchamma and four others.

Petitioners

And

The Commissioner, Endowments Department, Government of Andhra Pradesh, Tilak Road, Hyderabad and two others.

Respondents





THE HON'BLE SRI JUSTICE GODA RAGHURAM

W.P.No. 8308 of 2006

Oral order:

The petitioners claim to be legal representatives of late K. Chakravarthi Pillai, who died on 31-10-2005. Chakravarthi Pillai was in occupation of Ac.0-60 cents of vacant site belonging to Sri Sadasiva Swamy Temple, Puttur, Chittoor district, the 3<sup>rd</sup> respondent herein in survey No.197/2, Puttur town. There was no lease entered into and there is no instrument in existence recording grant of lease by the 3<sup>rd</sup> respondent-Temple to K. Chakravarthi Pillai.

In the circumstances, O.A.No. 72 of 1989 was initiated by the 2<sup>nd</sup> respondent under Section 83 of the Andhra Pradesh Charitable and Hindu Religious Institutions and Endowments Act, 1987 (for short 'the Act') for declaring him as an encroacher and for his eviction. By the order dated 16-09-1989 of the 2<sup>nd</sup> respondent, K. Chakravarthi Pillai was declared as an encroacher and an order of eviction passed. Challenging the said order, Chakravarthi Pillai filed O.S.No.195 of 1990 on the file of learned Subordinate Judge, Puttur for a declaration that the 3<sup>rd</sup> respondent-temple has no title to the suit schedule property and for setting aside the order in O.A.No. 72 of 1989. By the judgment and decree dated 29-12-1992, the civil court

rejected the petitioner's claim of title to the property on the basis of adverse possession. The court concluded that the order in O.A.No.72 of 1989 was an *ex-parte* order, that the petitioner should have been given ample opportunity to put forth his case before the authority, that the proceedings in the O.A. are contrary to the principles of natural justice. Consequently the civil court set aside the order dated 16-09-1989 in O.A.No.72 of 1989 and directed the 2<sup>nd</sup> respondent herein to give an opportunity to the plaintiff (petitioner herein) to put forth his case.

Section 151 of the Act bars the jurisdiction of any court in respect of entertaining any suit or other legal proceedings in respect of the administration or management of an institution or endowment or as regards any other matters of dispute in respect of which provisions exist in the Act. There is a specific provision for dealing with 'encroachers' in Section 83 of the Act and any person aggrieved by a determination under Section 83 of the Act, has a revisional remedy to the Commissioner under Section 92 of the Act and thereafter or independent of Section 92, to the Government under Section 93 of the Act. The jurisdiction of the civil court to adjudicate upon the merits of a determination made under Section 83 of the Act *ex-parte* or otherwise, is wholly and compulsively excluded. The decree of the civil court is therefore null and void and commands no recognition.

The petitioners now state that as the O.A stood restored on account of the civil court decree *supra* and as K. Chakravarthi Pillai died on 31-10-2005, there could be no determination in the O.A. against a dead person. The entire writ petition proceeds fundamentally on a misconception. The decree of the civil court is null and void as analyzed above. Therefore, the order dated 16-09-1989 in the O.A. operates *proprio vigore*. On the date of determination of O.A.No. 72 of 1989 i.e., 16-09-1989 K. Chakravarthi Pillai was alive and well and therefore the order determining K. Chakravarthi Pillai as an encroacher and directing his eviction suffers from no infirmity warranting interdiction or invalidation. If K. Chakravarthi Pillai could be legitimately evicted from the endowment land, the petitioners, who

claim to be the legal representatives of K. Chakravarthi Pillai, can have no superior claim.

There are no merits. The writ petition is dismissed. No costs.

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GODA RAGHURAM, J

Dated:28-04-2006

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